

FEB 21 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BOBBY K. RENFROE,

Petitioner - Appellant,

v.

CHERYL K. PLILER, Warden,

Respondent - Appellee.

No. 04-56680

D.C. No. CV-03-02958-ABC

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
Audrey B. Collins, District Judge, Presiding

Submitted February 14, 2006^{**}
Pasadena, California

Before: CANBY, KLEINFELD, and BERZON, Circuit Judges.

Renfroe appeals the district court's denial of his 28 U.S.C. § 2254 habeas petition, challenging his conviction for first degree murder, first degree residential robbery, assault with a firearm, and first degree residential burglary.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Renfroe argues that the district judge should not have allowed Officer Pack, a gang expert, to testify to Renfroe's gang membership because it was irrelevant and unduly prejudicial. In United States v. Abel, the Supreme Court held that the district court permissibly allowed testimony about the defendant's gang membership to show that a witness's testimony was biased.¹ The Court went on to say "[p]roof of bias is almost always relevant because the jury, as finder of fact and weigher of credibility, has historically been entitled to assess all evidence which might bear on the accuracy and truth of a witness' testimony."² The California Court of Appeal decision was not contrary to or an unreasonable application of Abel. The state-court adjudication did not result in (1) "a decision that was contrary to, or involved an unreasonable application of, clearly established Federal Law, as determined by the Supreme Court of the United States;"³ or (2) "a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding."⁴

Petition DENIED.

¹ United States v. Abel, 469 U.S. 45, 56 (1984).

² Id.

³ 28 U.S.C. § 2254(d)(1).

⁴ 28 U.S.C. § 2254(d)(2).